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March 23, 2016

By ECF

The Honorable Paul A. Crotty
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Chambers 1350
New York, NY 10007

Re: Hsueh v. New York State Department of Financial Services, et ano.,
No. 15-CV-03401 (PAC)

Dear Judge Crotty:

I write in response to the letter, filed by Plaintiff's attorney, Joshua Frank, earlier today, opposing Defendants' request that the Court authorize a two-day deposition of Plaintiff.¹

As described in Defendants' initial request, an extended deposition of Plaintiff is necessary because her claims against the two Defendants, who are represented by separate counsel, differ significantly and will require disparate lines of questioning. Mr. Frank's letter opposing the request does not address this point at all. Instead, he states without any support or explanation whatsoever that "the allegations in this case simply do not warrant an extra day for

¹ Defendants' request was filed nearly three weeks ago, on March 4, 2016. See Docket No. 27. Because Plaintiff failed to respond, the Court's clerk, Marlon Ovalles, emailed Mr. Frank (and Plaintiff's other attorney, Dorina Cela) on March 14, 2016 to inquire as to the status of a response. Mr. Frank replied that a response would be filed that week. Despite this representation, no response was filed last week. Indeed, Mr. Frank did not submit any response until today, March 26.

Plaintiff's deposition." Yet on March 14, 2016, Mr. Frank took a nearly seven-hour deposition of a non-party witness in this case. Any argument that the deposition of Plaintiff herself by counsel for each Defendant should not require more time is thus baseless at best.

Moreover, Mr. Frank's suggestion that Defendants' request for a two-day deposition should only be considered after completion of the first day is not workable. Indeed, without a guaranteed extension, Defendants will each have to prepare to complete their questioning of Plaintiff in three-and-a-half hours. That is simply not enough time for them to "fairly examine" her. Moreover, Plaintiff's deposition is currently scheduled to take place on April 20 (to be continued on April 21 if the instant request is granted), with several additional depositions scheduled to follow before the April 29 fact discovery cut-off. There would be far from enough time in the limited period after the first day of Plaintiff's deposition to obtain consent or Court authorization, schedule and hold a second day (particularly in light of the fact that it took almost three weeks just to get a response to Defendants' initial request for an extended deposition).

Accordingly, and while Defendants reiterate their commitment to conduct Plaintiff's deposition as expeditiously as possible, pre-authorization of a two-day deposition (one day for each Defendant) is necessary for a full and fair examination.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Eva L. Dietz', written over a horizontal line.

Eva L. Dietz
Assistant Attorney General

cc: Counsel of Record (via ECF)